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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. CR-12-00344 PJH
)	
Plaintiff,)	STIPULATED REQUEST TO CONTINUE
)	HEARING DATE TO JUNE 13, 2012 AND
v.)	TO EXCLUDE TIME UNDER THE
)	SPEEDY TRIAL ACT AND [PROPOSED]
)	ORDER
MARVIN CRUZ and)	
ALBERTO CRUZ,)	
)	
Defendant.)	
)	

The above-captioned matter is set on May 30, 2012, at 1:30 p.m., before this Court for a status hearing. The parties jointly request that the Court continue the matter to June 13, 2012, at 1:30 p.m., and that the Court exclude time under the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), between the date of this Stipulation and June 13, 2012.

Marvin and Alberto Cruz are charged in a one-count Indictment with conspiracy to possess and to distribute methamphetamine, a violation of 18 U.S.C. § 841(a)(1) and § 846. Both defendants face a mandatory minimum sentence of 5 years and a maximum sentence of 40 years in custody. Both defendants have been detained by the magistrate court, and the scheduled May 30, 2012 status hearing would be the first district court appearance in this matter.

The parties respectfully request that the Court continue this matter because counsel for

Marvin Cruz is unavailable from May 22 through June 4, 2012 and will not be present at the scheduled status hearing date. Moreover, the government has produced discovery that the defense needs time to review and process, and there are audio and video recordings that have yet to be produced because the parties are currently negotiating a protective order in this case. Additionally, the defense needs time to investigate the circumstances of this case.

The requested continuance until June 13, 2012 will give the defense time to prepare these important tasks. For these reasons, the parties agree that the failure to grant this continuance would unreasonably deny counsel for defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Moreover, given Marvin Cruz's counsel's unavailability for two weeks, the parties agree that the failure to grant this continuance would unreasonably deny Marvin Cruz continuity of counsel.

The parties further stipulate and agree that the ends of justice served by this continuance outweigh the best interest of the public and the defendants in a speedy trial. Accordingly, the parties agree that the period of time from the date of this stipulation until June 13, 2012 should be excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), for continuity of defense counsel and also for effective preparation of defense counsel, taking into account the exercise of due diligence.

DATED: May 17, 2012

NATALIE LEE
Assistant United States Attorney

DATED: May 17, 2012

CLAIRE M. LEARY
Counsel for Alberto Cruz

DATED: May 17, 2012

ANGELA M. HANSEN
Counsel for Marvin Cruz
Assistant Federal Public Defender

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby finds:

1. Given the defense need to complete its review of the discovery in this case and to investigate the offense charged in the Indictment;

2. Given that there are audio and video recordings that need to be reviewed by the defense and have not yet been produced, and given that the parties are currently negotiating a protective order in this case for these recordings;

3. Given that these tasks are necessary to the defense preparation of the case and that the failure to grant the requested continuance would unreasonably deny counsel for defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence;

4. Given that counsel for Marvin Cruz is unavailable for two weeks, including the status hearing date, and that the failure to grant this continuance would unreasonably deny Marvin Cruz continuity of counsel;

5. Given that the ends of justice served by this continuance outweigh the best interest of the public and the defendants in a speedy trial;

Based on these findings, IT IS HEREBY ORDERED that the status hearing on May 30, 2012 is vacated and this matter is reset on June 13, 2012, at 1:30 p.m., for status hearing. It is FURTHER ORDERED that time is excluded pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), from the date of this Stipulation until June 13, 2012.

DATED: May 21, 2012


PHYLLIS J. HAMILTON
United States District Judge